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Aman Gupta

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ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)

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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/748,520  
Filing Date: December 22, 2000  
Appellant(s): GUPTA ET AL.

Timothy J. Ziolkowski

For Appellant

**EXAMINER'S ANSWER**

This is a supplemental answer with corrected item (8) in response to the appeal brief filed 8 September 2006 appealing from the Office action mailed 26 August 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2002/0156694	CHRISTENSEN et al	10-2002
5,369,570	PARAD	11-1994

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Christensen et al (US 2002/0156694) of record.

Regarding claim 1, Christensen discloses a method for displaying real-time status of product availability (see the abstract). The claimed “automatically querying...otherwise” is met by the fact that the method of Christensen monitors the actual progress of the assembly of a product (see 0045). The claimed “for each product...is available” and “displaying a listing...availability management” are met by the fact that the method of Christensen status of the inventory is supervised via the inventory database (see 0046-0056). Note also that the “counting a number of days to create a number of days before the product is available” does not in anyway affect the final operation of “displaying a listing of each product and when the product is available for shipment”.

Regarding claim 2, Christensen discloses querying the database for a number of orders, product category and sales revenue, adding and displaying as claimed (see 0044).

Regarding claim 3, the claimed "displaying the number of days until the product is available for shipment" is met when Christensen discloses that actual progress of the assembly of a product is monitored (see 0045-0056).

Regarding claim 4, the claimed "creating a plurality...is available" is met when Christensen shows the production/assembly/shipping module (see Figure 4).

Claims 5, 6 merely read on the fact that a product changes to "ready for shipment" in the logistics system via a user interface upon completion (see 0045).

Claim 7 merely reads on the fact that the method of Christensen monitors the actual progress of the product assembly (see 0045).

Regarding claim 22, Christensen discloses displaying when the product is available to customers when Christensen shows customer tracking of the shipment (see 0046).

Claim 23 merely differs from claim 1 by adding the orders, product category and sales revenue. Christensen discloses all the claimed limitations (see 0044-0056).

Regarding claim 24, Christensen discloses the display categories includes a product status (see 0045).

Regarding claim 25, Christensen discloses automatically querying in real time when Christensen shows continuously or periodically supervising the actual inventory (see 0046).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-21, 26-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen et al (US 2002/0156694) of record, in view of Parad (US 5,369,570) of record.

Claims 8, 16 essentially recite a computer program product and signal for claim 1 with the added limitations of using temporary tables to store the number of days, accessing and updating the temporary tables. Although Christensen does not specifically show the use of temporary tables, it is well known in the art to use temporary tables for storing data during a continuous scheduling process as shown by Parad (see Figure 7, column 6, lines 20-22). Therefore, it would have been obvious to one of ordinary skill in the art to include the claimed features while implementing the computer program product of Christensen in order to maintain continuous update as actual progress is being monitored.

Claim 9 is met when Christensen shows planning and assembly schedule (see Figure 1).

Claims 10, 11, 12, 13 recite the same limitations of claims 2, 4, 5, 6 thus are rejected for the same reasons discussed in claims 2, 4, 5, 6 above.

Claims 14, 15 are met when Christensen shows querying the inventory system (see 0053).

Claim 17, 18, 21 recite the same limitations of claims 9, 12, 15, thus are rejected for the same reasons stated in claims 9, 12, 15 above.

Regarding claims 19, 20, since users' requirements vary, it would have been obvious to one of ordinary skill in the art to include the claimed intervals depending on users' application.

Claims 26, 30 correspond respectively to a method and system of claim 8, thus are rejected for the same reasons stated in claim 8 above.

Regarding claim 27, clearly the temporary tables are updated following a change since they store actual progress monitored continuously.

Regarding claim 28, Christensen teaches the concept of automatically querying the database for orders, inventory and revenue (see 0044, 0045, 0046).

Regarding claim 29, Christensen discloses that the regular time can be adjusted when Christensen shows continuously or periodically monitoring the system (see 0046).

Claim 31 merely recites a database for the limitations of claim 1, lines 7-9. Clearly the information has to be stored in the system of Christensen for querying purpose.

Regarding claim 32, the claimed actual shipping date has to be included in the shipping system of Christensen (see Figure 1, item 129).

Regarding claim 33, the claimed “displaying the number of days until the product is available for shipment” is met when Christensen discloses that actual progress of the assembly of a product is monitored (see 0045-0056).

Regarding claim 34, Christensen discloses an Intranet server for providing results to internal users (see 0051).

Regarding claim 35, Christensen discloses an Internet server for providing results to customers and potential customers (see Figure 1).

#### **(10) Response to Argument**

Appellant argues that “any accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself”. However, satisfactory evidence of the fact is required as admitted by appellant. In the instant application, no satisfactory evidence of the fact has been shown. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Christensen reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). There is no demonstrative evidence or complete disclosure to another of the claimed “counting a number of days between a current date and the date when the product will be ready for shipment to create a number of days before the product is available and displaying a listing of each product and when the product is available”.



Appellant argues that by displaying the status of the product, the Exhibit discloses that which is claimed. The examiner respectfully disagrees. Exhibit A page 5, under "CT Offering" merely shows the status of all products for example "Call for availability" or "Immediate shipment" or "Shipment within 90 days" which is not equivalent to "counting a number of days between a current date and the date when the product will be ready for shipment to create a number of days before the product is available and displaying a listing of each product and when the product is available".

For all the reasons stated above, rejection of claims 1-35 is maintained using the Christensen reference of record.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Uyen T. Le/

Primary Examiner, Art Unit 2163

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Supervisory Patent Examiner, Art Unit 2163

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Supervisory Patent Examiner, Art Unit 2164

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Conferees: Don Wong and Charles Rones